

Memorandum



Date: May 8, 2007

To: Honorable Chairman Bruno A. Barreiro and
Members, Board of County Commissioners

Agenda Item No. 1(D)5

From: George M. Burgess
County Manager

A handwritten signature in dark ink, appearing to read "G. Burgess", written over the printed name of the County Manager.

Subject: Sunset Review of County Boards for 2007 – Living Wage Commission

In accordance with the provisions of Section 2-11.40 of the Code of Miami-Dade County, I am transmitting the 2007 Sunset Review of County Boards Report for the Living Wage Commission. The Board approved the attached report at its meeting of February 15, 2007 and has recommended the continuation of its board.

A handwritten signature in dark ink, appearing to read "Ian Yorty", written over a horizontal line.

Ian Yorty
Assistant County Manager

cmo08807

Date: 2/15/07

To: George M. Burgess, County Manager

From: Gary Waters
Chairperson, Living Wage Commission

Subject: Sunset Review of County Boards for 2007 – Living Wage Commission

Pursuant to Section 2-11.40 of the Code of Miami-Dade County, I am submitting the 2007 Sunset Review of County Boards Report for the Living Wage Commission for transmittal to the Board of County Commissioners (BCC). The Board approved the attached report at its meeting of January 18, 2007 and the Department of Business Development staff concurs.

It is recommended that the BCC approve the continuation of the Living Wage Commission.

BACKGROUND

The Living Wage Commission was established on May 11, 1999 pursuant to Section 402 of the Home Rule Amendment and Charter, Section 2-8.9 of the Code of Miami-Dade County and Ordinance 99-44.

The purpose of the Living Wage Commission (LWC) is to review the effectiveness of the County's Living Wages pursuant to the governing legislation, review certification submitted by covered employer to the County, and to make recommendations to the Mayor and the County Commission regarding matters relating to the Living Wage Ordinance. The Living Wage Commission consists of appointees from each of the thirteen (13) Commissioners and two (2) appointees from the Mayor.

The Living Wage Commission should continue to function in order to ensure that the intent of the Living Wages is carried out. The Living Wage Commission meets on a monthly basis to review reports and recommendations submitted by the Department of Business Development (DBD) and the Public Health Trust and to allow public testimony on policies or conduct relating to the Living Wages. Some of the Living Wage Commission's accomplishments during the applicable year included, but were not limited to: Providing assistance to DBD in the proposal of amendments to the governing legislation to (1) refine health benefit requirements, including provisions for a Health Benefit Plan with standard health benefits meeting the requirements as set forth in State Statute 627.6699 (12) (a); (2) increase the penalties for violators, and support for the inclusion of in-warehouse cargo handlers as part of the covered services. In addition, the LWC oversaw the development and distribution of informational materials that would clarify the intent of the Living Wage and the responsibilities of the County, affected employers and employees.

Gary Waters 2/15/07
Gary Waters
Board Chairperson

**SUNSET REVIEW QUESTIONNAIRE
MIAMI-DADE COUNTY BOARDS
2007**

I. GENERAL INFORMATION

1. Name of Board reporting: Living Wage Commission
2. Indicate number of board members, terms of office, and number of vacancies:
See attachment "A".
3. Identify number of meetings and members' attendance (Attach records reflecting activity from **Jan. 1, 2005** through **December 31, 2006**):
See attachment "B".
4. What is the source of your funding? There is no funding source for the Living Wage Commission Advisory Board.
5. Date of Board Creation: May 11, 1999
6. Attach a copy of the ordinance creating the Board (Please include all subsequent amendments). See Attachments "C"
7. Include the Board's Mission Statement or state its purpose: The purpose of the Living Wage Commission (LWC) is to review the effectiveness of the Living Wages, the respective legislation governing living wages, review certifications submitted by covered employers to Miami-Dade County, and to make recommendations to the Mayor and the County Commission regarding matters relating to the legislation governing Living Wages.
8. Attach the Board's standard operating procedures, if any. N/A
9. Attach a copy of the Board's By-Laws, if any. N/A
10. Attach a copy of the Board minutes approving the Sunset Review Questionnaire, **including a vote of the membership.** See Attachment "D"
11. Include a diskette, saved as ASCII or Rich Text Format (RTF), of the County Manager's transmittal memorandum to the Board of County Commissioners with the Board's recommendation.

**SUNSET REVIEW QUESTIONNAIRE
MIAMI-DADE COUNTY BOARDS
2007**

II. EVALUATION CRITERIA

1. Is the Board serving the purpose for which it was created? (Please provide detailed information) The Board is serving the purpose for which it was created by reviewing the effectiveness of Section 2-8.9 of the Miami-Dade County Code.
2. Is the Board serving current community needs? (Please provide detailed information)? The Board is serving current community needs by ensuring that the objectives of Living Wages are achieved through fair and equitable process in accordance with the governing legislation

1. What are the Board's major accomplishments?

Since established the Living Wage Commission (LWC) has continued to reassure the public confidence, that an oversight public group is protecting employees living wage under the adopted Code. The LWC has served as a forum for employees, employers, and the general public, whereby they were given an opportunity to express their concerns and register their comments regarding the purpose and effectiveness of the Living Wage Ordinance. Recommendations from the LWC led to a study conducted by professors at Florida International University (FIU), and commissioned by Miami-Dade Commissioner Seijas, confirming the beneficial effects of the ordinance on the Miami-Dade Community. The LWC reviewed reports submitted by departments charged with enforcement of the ordinance and made recommendations to the staff for procedural changes making the reports more comprehensive and enforcement more effective. Recommendations by the LWC to the Miami-Dade Board of County Commissioners led to the passage of amendments to the Living Wage Ordinance which better defined health insurance requirements; revised and made progressive the penalty provisions for violators of the ordinance; and expanded the scope of the ordinance to include "in-warehouse cargo handlers." In summary, the Living Wage Commission has performed an essential role as a conduit between the business community; the affected employees; the public; the Department of Business Development staff; the Jackson Health Trust staff; and the Miami-Dade Board of County Commissioners.

2. Is there any other board, either public or private, which would better serve the function of this board? There is no other public or private board that we are aware of that would better serve the function of the Living Wage Commission Advisory Board.

**SUNSET REVIEW QUESTIONNAIRE
MIAMI-DADE COUNTY BOARDS
2007**

3. Should the ordinance creating the Board be amended to better enable the Board to serve the purpose for which it was created? (Attach proposed changes, if answer is "Yes") No.
4. Should the Board's membership requirements be modified? No.
5. What is the operating cost of the Board, both direct and indirect? (Report on FY 2006 and FY 2007). There is no operating cost.
6. Describe the Board's performance measures developed to determine its own effectiveness in achieving its stated goals. The Board meets monthly and reviews various reports of all contracts awarded with Living Wage applicability to include firms that are in non-compliance and the actions taken or to be taken as well as those firms which are under compliance review as a possible violation has been noted. These performance measures allow the Board to gauge the effectiveness of Living Wages and the administration of same.

LIVING WAGE COMMISSION MEMBER DIRECTORY

ATTACHMENT A

BOARD MEMBER	ADDRESS	TELEPHONE NUMBER	E-MAIL ADDRESS	TERM OF OFFICE	AFFILIATION	APPOINTING COMMISSIONER
Gary Waters Chairman	1425 NW 36 Street Miami, FL 33142	305-634-3419 (work) (*82) 305-633-0698 (fax)	juoe487@aol.com	11-19-02 - 11-30-08	labor union	Natacha Seijas District 13
Arthur Rosenberg Vice-Chairman	3000 Biscayne Blvd. #450 Miami, FL 33137	305-573-0092 (x207) 305-576-9664 (fax) 786-269-6749 (cell)	Arthur@floridalegal.org	11-21-03 - 10-31-06	legal services	Katy Sorenson District 8
Annette E. Masdeu-Vergara	General Patrol Services 102 Ponce de Leon Blvd. Coral Gables, FL 33135	305-448-1919 (w) (*82) 786-443-0889 (cell) 305-448-6405 (fax)	annetemasdeu@aol.com	7/7/05 - 11/30/08	not available	Bruno A. Barreiro District 5
Gail Puntervold	1249 Raven Avenue Miami Springs, FL 33166	305-714-4519 (w)	gpuntervold@hbains.com	10-31-03 - 10-31-06	not available	Rebeca Sosa District 6
Santiago G. Leon	11600 SW 69 Avenue Miami, FL 33156-4728	305-577-4270 (w) 305-577-3502 (fax) 305-666-7361 (h)	sleon@answertisk.com	9-9-03 - 10-31-04	business community	Carlos Gimenez District 7
Benjamin J. Burton	615 NW 22 Street, #502 Miami, FL 33137	(305) 571-8101 (w) (305) 571-8157 (f) (305) 576-9694 (h)	Ben@miamihomeless.org	12-5-05 - 11-30-08	Not available	Barbara Jordan District 1
Irwin Loibman	915 NE 180 Street Miami, FL 33162	(305) 652-9311 (h) (305) 542-8982	Loib11@yahoo.com	3-23-06 - 11-30-08	-----	Joe A. Martinez District 11
Dennis E. Caserta	16041 SW 156 Avenue Miami, FL 33187	(305) 253-2503 (h) (305) 995-4860 (w) -----	dennisc@dcsaa.org -----	3-29-06 - 11-30-09 -----	-----	Mayor Carlos Alvarez Dorin D. Rolle District 2
Vacant (previous member Thomas K. Pinder)	-----	-----	-----	-----	-----	Dennis C. Moss District 9
Vacant (previous member Craig Allen-resigned)	-----	-----	-----	-----	-----	Audrey Edmonson District 3
Vacant (previous member Darnalie Nixon)	-----	-----	-----	-----	-----	Sally A. Heyman District 4
Vacant (previous member R. Terry Cuson)	-----	-----	-----	-----	-----	Javier D. Souto District 10
Vacant	-----	-----	-----	-----	-----	Jose "Pepe" Diaz District 12
Vacant	-----	-----	-----	-----	-----	Mayor Carlos Alvarez
Vacant (previous member Edith Owens appt. by Mayor Alex Penelas)	-----	-----	-----	-----	-----	

LIVING WAGE COMMISSION

APPOINTED REPRESENTATIVE ATTENDANCE RECORD

1/1/05-12/31/06

ATTACHMENT B

NAMES		1/19/2006	2/16/2006	3/16/2006	4/20/2006	5/18/2006	6/15/2006	7/20/2006	8/17/2006	10/5/2006	11/16/2006		
1	Gary Waters, Chairman	P	P	P	P	P	P	P	P	P	P		
2	Arthur Rosenberg, Vice Chairman	P	P	P	P	E	P	P	E	P	P		
3	Annette E. Madeu-Vergara	P	E	P	P	P	P	P	P	P	P		
4	Gail Puntervold	E	E	E	E	E	E	E	E	E			
5	Santiago G. Leon	P	P	P	P	E	P	P	P	E			
6	Benjamin J. Burton		E	P	P	E	P	P	P	E			
7	Irwin Loibman					P	P	P	P	P			
8	Dennis E. Caserta						P	P	P	E			
9	Craig Allen	P	E	P	P	P	E	P	P	P			
10	Edith Owens	E	P	P	E	E	P						
NAMES		1/20/2005	2/17/2005	2/28/2005	3/17/2005	4/21/2005	6/16/2005	7/21/2005	8/18/2005	9/15/2005	10/20/2005	10/17/2005	12/15/2005
1	Thomas K. Pinder, Chairman	P	P	P	P	P	P	P	P	P	P	P	P
2	Frank Mena, Vice Chairman	P	E	P	E	E	E	E	E	E	E		
3	Gary Waters	P	P	P	P	P	P	P	E	P	P	P	
4	Arthur Rosenberg	P	E	P	E	P	P	P	P	P	P	P	P
5	Annette E. Madeu-Vergara												
6	Gail Puntervold	E	E	E	E	P	E	P	P	P	P	P	P
7	Santiago G. Leon	P	P	P	P	P	E	P	E	P	E	E	P
8	Craig Allen	P	E	P	E	P	P	P	P	P	P	P	P
9	Edith Owens	P	P	P	P	P	P	P	E	P	P	E	E
10	R. Terry Cuson	E	E	E	E	E	P	E	P	P	P	P	P
Legend:													
P=Present													
E= Excused													
Note: Meetings were not held for the month of 9/06, 12/06 and 11/05													



**Miami-Dade Legislative Item
File Number: 063143**

ATTACHMENT C

Printable PDF Format Print this page

File Number: 063143

File Type: Ordinance

Status: Adopted

Version: 0

Reference: 06-151

Control:

File Name: LIVING WAGE ORD.-IN-WAREHOUSE CARGO AT AVIATION FACILITIES

Introduced: 10/31/2006

Requester: NONE

Cost:

Final Action: 10/10/2006

Agenda Date: 10/10/2006

Agenda Item Number: 7E

Notes: THIS IS FINAL VERSION AS ADOPTED. (also see 061280)

Title: ORDINANCE AMENDING SECTION 2-8.9 OF THE CODE OF MIAMI-DADE COUNTY (THE LIVING WAGE ORDINANCE) TO ADD IN-WAREHOUSE CARGO HANDLING AT MIAMI-DADE COUNTY AVIATION DEPARTMENT FACILITIES AS A COVERED SERVICE; AMENDING SECTION 2-8.9 OF THE CODE OF MIAMI-DADE COUNTY; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE [SEE ORIGINAL ITEM UNDER FILE NO. 061280]

Indexes: LIVING WAGE

Sponsors: Natacha Seijas

Audrey M. Edmonson

Barbara J. Jordan

Katy Sorenson

Sunset Provision: No

Effective Date:

Expiration Date:

Registered Lobbyist: None Listed

LEGISLATIVE HISTORY

Acting Body	Date	Agenda Item Action	Sent To	Due Date Returned	Pass/Fail
County Attorney	10/31/2006	Assigned	Eric A. Rodriguez	10/31/2006	P
Board of County Commissioners	10/10/2006	7E Amended Adopted as amended			

REPORT: County Attorney Greenberg read the foregoing proposed ordinance into the record. Attorney Miguel Diaz de la Portilla, 2525 Ponce De Leon Boulevard, appeared before the Board and expressed concern regarding the 90-day effective date. He asked the Commission to consider allowing some relief for the small minority-owned businesses. The Board adopted the foregoing ordinance as amended to include a 90-Day Effective Date.

LEGISLATIVE TEXT

TITLE

ORDINANCE AMENDING SECTION 2-8.9 OF THE CODE OF MIAMI-DADE COUNTY (THE LIVING WAGE ORDINANCE) TO ADD IN-WAREHOUSE CARGO HANDLING AT MIAMI-DADE COUNTY AVIATION DEPARTMENT FACILITIES AS A COVERED SERVICE; AMENDING SECTION 2-8.9 OF THE CODE OF MIAMI-DADE COUNTY; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

BODY

WHEREAS, the Board of County Commissioners on May 11, 1999, enacted Ordinance 99-44 establishing a Living Wage requirement for specified County service contracts, specified permittees and for County employees, which was codified in the County Code as Section 2-8.9 ("Living Wage Ordinance"); and

WHEREAS, the Board of County Commissioners in the Living Wage Ordinance established an advisory board known as the Living Wage Commission to make recommendations to the Board of County Commissioners regarding the effectiveness of the Living Wage Ordinance; and

WHEREAS, the Living Wage Ordinance includes ramp services such as loading and unloading cargo to and from aircraft at Miami-Dade Aviation Department ("MDAD") facilities as a covered service; and

WHEREAS, since the loading and unloading of cargo to and from aircraft is already a covered service, it is advisable to add in-warehouse cargo handling as a specified covered service and thereby bring the warehouse portion of the cargo handling process within the ambit of the Living Wage Ordinance,

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:

Section 1. Section 2-8.9 of the Code of Miami-Dade County, Florida, is hereby amended as follows: 1
Sec. 2-8.9. Living Wage Ordinance For County Service Contracts and County Employees.

DEFINITIONS

(F) "Covered Services" are any one (1) of the following:

(2) Service Contractors at Aviation Department Facilities.

Any service provided by a Service Contractor at a Miami-Dade County Aviation Department Facility is a covered service without reference to any contract value:

>>(K) In-warehouse cargo handling<<

Section 2. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 3. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 4. This ordinance shall become effective ninety (90) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

1 Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

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Miami-Dade Legislative Item File Number: 061487

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File Number: 061487

File Type: Ordinance

Status: Adopted

Version: 0

Reference: 06-67

Control:

File Name: LIVING WAGE

Introduced: 5/11/2006

Requester: NONE

Cost:

Final Action: 5/9/2006

Agenda Date: 5/9/2006

Agenda Item Number: 71

Notes: THIS IS FINAL VERSION AS ADOPTED. (also see 060830)

Title: ORDINANCE AMENDING SECTION 2-8.9 OF THE CODE OF MIAMI-DADE COUNTY (THE LIVING WAGE ORDINANCE) TO REFINE HEALTH BENEFIT ELIGIBILITY REQUIREMENTS; AUTHORIZING ADDITIONAL PENALTIES FOR NON-COMPLIANCE; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE [SEE ORIGINAL ITEM UNDER FILE NO. 060830]

Indexes: LIVING WAGE

Sponsors: Natacha Seijas
Dorin D. Rolle

Sunset Provision: No

Effective Date:

Expiration Date:

Registered Lobbyist: None Listed

LEGISLATIVE HISTORY

Acting Body	Date	Agenda Item	Action	Sent To	Due Date	Returned	Pass/Fail
County Attorney	5/11/2006		Assigned	Eric A. Rodriguez	5/11/2006		
Board of County Commissioners	5/9/2006	71 Amended	Adopted as amended				P

REPORT: During consideration of changes to today's agenda, Commissioner Rolle requested to be listed as a co-sponsor of the foregoing proposed ordinance. Assistant County Attorney Eric Rodriguez advised the Living Wage Advisory Board had recommended the foregoing proposed ordinance be amended to add the following language to Section B, Health Benefit Plan, on handwritten page 6: "..., provided that the employee is not required to pay a premium contribution for employee-only coverage." The sentence would now read: "The Service Contractor may require that all employees enroll in a Health Benefit Plan offered by the Service Contractor, provided that the employee is not required to pay a premium contribution for employee-only coverage." It was moved by Commissioner Seijas that the foregoing proposed ordinance be adopted as amended. This motion was seconded by Commissioner Jordan for discussion. Commissioner Sosa expressed concern regarding the cost of health insurance and the impact on small businesses. She noted while the County had a responsibility to offer health care options, she questioned who would be affected by the foregoing proposed ordinance. Responding to Commissioner Sosa, Assistant County Attorney Rodriguez advised the foregoing proposed ordinance did not mandate that any of the contractors who were subject to the ordinance, pay health insurance. Commissioner Edmonson asked what would be the effect if the language on handwritten page 8 under (D) relating to the violation was switched from "may" to "shall." Assistant County Attorney Rodriguez advised the difference between "may" and "shall" would be to remove the discretion from the Department of Business Development in terms of imposing a violation and granting a notice of violation. Commissioner Moss said small businesses and non-profit organizations were experiencing a health care crisis because of spiraling health care costs. Commissioner Seijas asked Assistant County Attorney Rodriguez to discuss with the Living Wage Advisory Board the possibility of joining with Miami-Dade County and utilizing the County's insurance providers. Referring to health care in general, Commissioner Barreiro suggested the Board study Massachusetts' model for developing a statewide insurance coverage plan. Upon being put to a vote, the motion to adopt the foregoing proposed ordinance passed by a vote of 11-0, (Commissioners Sosa and Souto were absent).

LEGISLATIVE TEXT

TITLE

ORDINANCE AMENDING SECTION 2-8.9 OF THE CODE OF MIAMI-DADE COUNTY (THE LIVING WAGE ORDINANCE) TO REFINE HEALTH BENEFIT ELIGIBILITY REQUIREMENTS; AUTHORIZING ADDITIONAL PENALTIES FOR NON-COMPLIANCE; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

BODY

WHEREAS, the Board of County Commissioners on May 11, 1999, enacted Ordinance 99-44 establishing a Living Wage requirement for specified County service contracts, specified permittees and for County employees, which was codified in the County Code as Section 2-8.9 ("Living Wage Ordinance"); and
WHEREAS, the Board of County Commissioners in the Living Wage Ordinance established an advisory board known as the Living Wage Commission to make recommendations to the Board of County Commissioners regarding the effectiveness of the Living Wage Ordinance; and
WHEREAS, after much discussion by the Living Wage Commission Advisory Board, it is apparent that refining the health benefits requirements and strengthening the penalties for non-compliance will enhance the effectiveness of the Living Wage Ordinance,
NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:

Section 1. Section 2-8.9 of the Code of Miami-Dade County, Florida, is hereby amended as follows:
Sec. 2-8.9. Living Wage Ordinance For County Service Contracts and County Employees.

LIVING WAGE

(A) Living Wage Paid

(1) Service contractors.

All Service Contractors as defined by this Chapter, including MIA General Aeronautical Service Permittees (subject to restrictions if any applicable to such permit), performing Covered Services with Miami-Dade County shall pay to all of its employees providing Covered Services, a Living Wage of no less than \$8.56 per hour with a health >>benefit plan<< [[benefits]] as described in this section, or otherwise \$9.81 per hour, >>or the current rate for the given year in the manner provided for herein for the adjustment of the Living Wage rate<<.

(B) Health >>Benefit Plan<< [[Benefits]].

>>(1)<< For a Covered Employer or the County to comply with the Living Wage provision by choosing to pay the lower wage scale available when a Covered Employer also provides >a<< Health Benefit >>Plan<<, such Health Benefit >>Plan<< shall consist of payment of at least \$1.25 per hour towards the provision of a >>Health Benefit Plan<< [[health care benefits]] for employees and >>, if applicable,<< their dependents. [[If the health benefit plan of a covered employer or the County requires an initial period of employment for a new employee to be eligible for health benefits (eligibility period) such covered employer or the County may qualify to pay the \$8.56 per hour wage scale during a new employee's initial eligibility period provided the new employee will be paid health benefits upon completion of the eligibility period.]]. >>The minimum amount of payment by a Service Contractor for the provision of a Health Benefit Plan on a per-hour basis will be calculated based on a maximum of a 40-hour work week. Overtime hours will not require additional payments towards the provision of a Health Benefit Plan. If the Service Contractor pays less than the required amount for providing a Health Benefit Plan provided in this section, then the Service Contractor may comply with the Living Wage requirements by paying the difference between the premium it pays for the Health Benefit Plan of the Covered Employee and the minimum amount required by this section for a qualifying Health Benefit Plan. The Service Contractor may require that all employees enroll in a Health Benefit Plan offered by the Service Contractor, provided that the employee is not required to pay a premium contribution for employee-only coverage.<< Proof of the provision of a Health >>Benefit Plan<< [[Benefits]] must be submitted to the awarding authority to qualify for the wage rate for employees with a Health Benefit Plan. [[health benefits]]. >>Health Benefit Plan for purposes of complying with this section shall qualify if it includes the benefits contained in a standard health benefit plan meeting the requirements set forth in §627.6699(12)(a) Florida Statutes.

(2) To the extent a Covered Employer seeks to pay the lower Living Wage rate for employers providing a qualifying Health Benefit Plan during the initial eligibility period applicable to new employees, the Living Wage requirement may be complied with as follows during the eligibility period:

(a) Provided the Covered Employer will be providing a qualifying Health Benefit Plan to a new employee upon the completion of such employee's eligibility period required under the Covered Employer's Health Benefit Plan and the Covered Employer has taken the necessary steps to effectuate coverage for such employee, a Covered Employer may only qualify to pay the Living Wage rate applicable to employees with a Health Benefit Plan for a term not to exceed the first ninety (90) days of the new initial employee's eligibility period, said term commencing on the employee's date of hire.

(b) If the Covered Employee is not provided with a qualifying Health Benefit Plan within ninety (90) days of initial hire, then the Covered Employer commencing on the ninety first (91st) day of the new employee's initial eligibility period, must commence to pay the applicable Living Wage rate for Covered Employees without a Health Benefit Plan and must retroactively pay the Covered Employee the difference between the two Living Wage rates for the term of the eligibility period.<<

COMPLIANCE AND ENFORCEMENT

(D) Sanctions Against Service Contractors. For violations of this Ordinance as determined pursuant to the procedures set forth by Administrative Order, the County may sanction a Service Contractor for violations of this Ordinance by requiring the Service Contractor to pay wage restitution to the affected employee. The County may also sanction the Service Contractor in at least one of the following additional ways:

- (1) Damages payable to the County in the sum of up to \$500 for each week for each Covered Employee found to have not been paid in accordance with this Chapter;
- (2) The County may suspend or terminate payment under the contract or terminate the contract with the Service Contractor;
- (3) The County may declare the Covered Employer ineligible for future service contracts for three (3) years or until all penalties and restitution have been paid in full, whichever is longer. In addition all employers shall be ineligible under this section where principal officers of the employer were principal officers of an employer who has been declared ineligible under this Chapter; and.

(4) All such sanctions recommended or imposed shall be a matter of public record.

>>(5) A Service Contractor who fails to respond to a notice of noncompliance, fails to attend a Compliance Meeting, or who does not timely request an administrative hearing from an adverse compliance determination made by DBD after a Compliance Meeting shall be deemed not to have complied with the requirements of this section as stated in the notice or determination of non-compliance and, in the case of underpayment of the Living Wage required, an amount sufficient to pay any underpayment

shall be withheld from contract proceeds and remitted to the employee and the Service Contractor may be fined the applicable penalty for such underpayment as follows. In the case of underpayment of the required Living Wage rate, the amount equal to the amount of such underpayment may be withheld from the Service Contractor and remitted to the employee and in addition, the Service Contractor may also be fined for such noncompliance as follows:

- (A) for the first underpayment, a penalty in an amount equal to 10% of the amount
- (B) for the second underpayment, a penalty in an amount equal to 20% thereof;
- (C) for the third and successive underpayments, a penalty in an amount equal to 30% thereof.

(D) A fourth violation, shall constitute a default of the subject contract and may be cause for suspension or termination in accordance with the contract's terms and debarment in accordance with the debarment procedures of the County. Monies received from payment of penalties imposed hereunder shall be deposited in a separate account and shall be utilized solely to defray DBD's costs of administering the Living Wage provisions. If the required payment is not made within a reasonable period of time, the noncomplying Service Contractor and the principal owners thereof shall be prohibited from bidding on or otherwise participating in County Living Wage contracts for a period of three (3) years.<<

Section 2. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 3. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 4. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

1 Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

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Miami-Dade Legislative Item File Number: 021992

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File Number: 021992 File Type: Ordinance Status: Adopted
Version: 0 Reference: 02-147 Control: County Commission
File Name: AMEND SEC 2-8.9 LIVING WAGE TO INCLUDE SRVS AT AVIATION DEPT Introduced: 6/27/2002
Requester: NONE Cost: Final Action: 9/12/2002
Agenda Date: 9/12/2002 Agenda Item Number: 4B

Notes:

Title: ORDINANCE AMENDING SECTION 2-8.9 OF THE CODE OF MIAMI-DADE COUNTY (THE LIVING WAGE ORDINANCE) TO CLARIFY COVERAGE OF THE ORDINANCE TO INCLUDE SERVICE PROVIDERS AT AVIATION DEPARTMENT FACILITIES; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE [SEE AGENDA ITEM NO. 9A2]

Indexes: ORDINANCE AMENDING
LIVING WAGE

Sponsors: Natacha Seijas
Jimmy L. Morales

Sunset Provision: No

Effective Date:

Expiration Date:

Registered Lobbyist: None Listed

LEGISLATIVE HISTORY

Acting Body	Date	Agenda Item	Action	Sent To	Due Date Returned	Pass/Fail
Board of County Commissioners	9/12/2002	4B	Adopted			P

REPORT: Chairperson Margolis relinquished the Chair to Commissioner Carey-Shuler and left the Chamber. The public hearing was opened by Commissioner Carey-Shuler on the foregoing proposed ordinance and the following individuals appeared and spoke in support of the foregoing ordinance: Mr. Gary Waters, 1425 NW 36 Street Dr. Thomas Pender, Vice Chair of The Living Wage Commission Advisory Board. Attorney Arthur Rosenberg, PA and Member of The Living Wage Advisory Board Hearing no other persons in connection with the foregoing item, the public hearing was closed. Commissioner Seijas noted the foregoing ordinance was indicative of a labor of love and had been thoroughly reviewed and analyzed to ensure fairness. She asked that the related Agenda Item 9A2 be considered with Item 4B. Responding to Commissioner Cancio's comments that all businesses must adopt consistent laws including the airport, Commissioner Seijas noted the language of the proposed ordinance stated "across the board level playing field". Hearing no further discussion, the Board proceeded to vote on the foregoing proposed ordinance as presented.

Transportation Infrastructure & Environment Cmte 9/4/2002 2C

Forwarded to BCC with a favorable recommendation

P

REPORT: Commissioner Seijas, sponsor, appeared before the committee in support of the foregoing proposed ordinance. The Assistant County Attorney confirmed that the foregoing proposed ordinance did not provide for exemptions and included airlines providing a service, such as fuel services, to other airlines. Staff responded to Commissioner Cancio's inquiry regarding the fiscal impact of the proposed ordinance. Commissioner Cancio noted at the Board's meeting of July 23, 2002, he had made a motion to defer an item requesting approval to advertise for bids on the gas matter, for a period of 12 months. He requested clarification as to whether that motion provided for the extension of the existing contract. Assistant County Attorney Abigail Price Williams advised that a specific motion would have to be made by the Board of County Commissioners to approve an extension of the current agreements, which would expire in October 2002. Commissioner Cancio requested a resolution be prepared that would extend the gas contract for 12 months.

Transportation Infrastructure & Environment Cmte 7/16/2002 2E

Deferred

Board of County Commissioners

7/11/2002 13P

Adopted on first reading

9/12/2002

P

Board of County Commissioners

7/9/2002 13P

Carried over

7/11/2002

REPORT: (See Legistar Meeting Key Number 1144).

County Attorney

6/27/2002

Assigned

Eric A.
Rodriguez

LEGISLATIVE TEXT**TITLE**

ORDINANCE AMENDING SECTION 2-8.9 OF THE CODE OF MIAMI-DADE COUNTY (THE LIVING WAGE ORDINANCE) TO CLARIFY COVERAGE OF THE ORDINANCE TO INCLUDE SERVICE PROVIDERS AT AVIATION DEPARTMENT FACILITIES; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

BODY

WHEREAS, the Board of County Commissioners on May 11, 1999, enacted Ordinance 99-44 establishing a Living Wage

13

requirement for specified County service contracts, specified permittees and for County employees, which was codified in the County Code as Section 2-8.9; and
 WHEREAS, it is necessary to clarify the coverage of the Ordinance to include service providers at Aviation Department facilities to ensure the effectiveness of the Living Wage Ordinance,
 NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:
 Section 1. Section 2-8.9 of the Code of Miami-Dade County, Florida, is hereby amended as follows:1
 Sec. 2-8.9. Living Wage Ordinance For County Service Contracts and County Employees.

DEFINITIONS

* * *

(C) "Service Contractor" is any individual, business entity, corporation (whether for profit or not for profit), partnership, limited liability company, joint venture, or similar business that is conducting business in Miami-Dade County or any immediately adjoining county and meets the following criteria:

- (1) the Service Contractor is paid in whole or part from one or more of the County's general fund, capital project funds, special revenue funds, or any other funds either directly or indirectly, whether by competitive bid process, informal bids, requests for proposals, some form of solicitation, negotiation, or agreement, or any other decision to enter into a contract;
- (2) the Service Contractor is engaged in the business of, or part of, a contract to provide, a subcontractor to provide, or similarly situated to provide, Covered Services, either directly or indirectly for the benefit of the County; or
- (3) the Service Contractor is a General Aeronautical Service Permittee (GASP) >>or otherwise provides any of the Covered Services as defined herein at any Miami-Dade County Aviation Department facility including << [[at]] Miami International Airport, >>pursuant to a permit, lease agreement or otherwise.<<

* * *

(F) "Covered Services" [[are services purchased by the County that are subject to the requirements of the Living Wage Ordinance which]] are >>any< * * *

(2) [[GASP Permittee]] >>Service Contractors at Aviation Department Facilities<<
 Any of the following services provided by a [[GASP Permittee at MIA]] >>Service Contractor at a Miami-Dade County Aviation Department Facility<< is a Covered Service without reference to any contract value:

>>(A) Ramp Service:

Guiding aircraft in and out of Airport; aircraft loading and unloading positions, designated by the Aviation Department; placing in position and operating passenger, baggage and cargo loading and unloading devices, as required for the safe and efficient loading and unloading of passengers, baggage and cargo to and from aircraft; performing such loading and unloading; providing aircraft utility services, such as air start and cabin air; fueling; catering; towing aircraft; cleaning of aircraft; delivering cargo, baggage and mail to and from aircraft to and from locations at any Miami-Dade County Aviation Department facility; and providing such other ramp services approved in writing by the Aviation Department;

(B) Porter Assistance Services:

Handling and transportation through the use of porters, or other means, of baggage and other articles of the passengers of contracting air carriers or aircraft operators, upon request of the passenger, in public access areas of the Airport Terminal Complex. The Living Wage shall not apply to employees performing tip-related porter assistance services, including curbside check-in;

(C) Passenger Services:

Preparing such clearance documents for the baggage and cargo of aircraft passengers, as may be required by all governmental agencies; furnishing linguists for the assistance of foreign-speaking passengers; passenger information assistance; arranging in-flight meals for departing aircraft with persons or companies authorized by the Department to provide such meals; and providing assistance to handicapped passengers;

(D) Dispatching and Communications Services:

Providing ground to aircraft radio communication service; issuing flight clearances; sending and receiving standard arrival, departure and flight plan messages with appropriate distribution of received messages; providing standby radio flight watch for aircraft in flight; and calculation of fuel loads and take-off and landing weights for aircraft;

(E) Meteorological Navigation Services:

Providing information based on the analysis and interpretation of weather charts; planning aircraft flights in accordance with the latest accepted techniques; providing appropriate prognostic weather charts; and generally providing information appropriate for enroute aerial navigation;

(F) Ticket Counter and Operations Space Service:

The operation of ticket counter and airlines' operations space; ticket checking, sales and processing; weighing of baggage; operation of an information, general traffic operations and communications office for air carriers and aircraft operators with whom the Service Contractor has contracted to supply such services;

(G) Janitorial Services;

(H) Delayed Baggage Services;

(I) Security Services unless provided by federal government or pursuant to a federal government contract; and,

(J) Any other type of service that a GASP permittee is authorized to perform at any Miami-Dade County Aviation Department Facility will be considered a Covered Service, regardless of whether the service is performed by a GASP permittee or other Service Contractor.<<

Section 2. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 3. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 4. This ordinance shall become effective November 1, 2002, unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

Section 5. This ordinance does not contain a sunset provision.



Miami-Dade Legislative Item
File Number: 001631

Print this page

File Number: 001631	File Type: Ordinance	Status: Adopted
Version: 0	Reference: 00-85	Control: County Commission
File Name: AMENDMENT TO LIVING WAGE ORDINANCE		
Requester: NONE	Cost:	Introduced: 6/13/2000
Agenda Date: 7/6/2000		Final Action: 7/6/2000
		Agenda Item Number: 4C

Notes:

Title: ORDINANCE AMENDING SECTION 2-8.9 OF THE CODE OF MIAMI-DADE COUNTY (THE LIVING WAGE ORDINANCE) TO CLARIFY DEFINITIONS AND MAKE TECHNICAL CORRECTIONS; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

Indexes: LIVING WAGE**Sponsors:** Natacha Seijas Millan**Sunset Provision:** No**Effective Date:****Expiration Date:****Registered Lobbyist:** None Listed**LEGISLATIVE HISTORY**

Acting Body	Date	Agenda Item	Action	Sent To	Due Date	Returned	Pass/Fail
Board of County Commissioners	7/6/2000	4C	Adopted				P
Board of County Commissioners	6/20/2000	13J	Adopted on first reading		7/6/2000		P
County Attorney	6/13/2000		Assigned	Eric A. Rodriguez			

LEGISLATIVE TEXT**TITLE**

ORDINANCE AMENDING SECTION 2-8.9 OF THE CODE OF MIAMI-DADE COUNTY (THE LIVING WAGE ORDINANCE) TO CLARIFY DEFINITIONS AND MAKE TECHNICAL CORRECTIONS; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

BODY

WHEREAS, the Board of County Commissioners on May 11, 1999, enacted Ordinance 99-44 establishing a Living Wage requirement for specified County service contracts, specified permittees and for County employees, which was codified in the County Code as Section 2-8.9; and

WHEREAS, it is necessary to clarify certain definitions and make other technical corrections for the effectiveness and proper administration of the Living Wage Ordinance,

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:

Section 1. Section 2-8.9 of the Code of Miami-Dade County, Florida, is hereby amended as follows:1

Sec. 2-8.9. Living Wage Ordinance For County Service Contracts and County Employees.

DEFINITIONS

(C) "Service Contractor" is any individual, business entity, corporation (whether for profit or not for profit), partnership, limited liability company, joint venture, or similar business that is conducting business in Miami-Dade County or any immediately adjoining county and meets the following criteria:

(1) the Service Contractor is paid in whole or part from one or more of the County's general fund, capital project funds, special revenue funds, or any other funds either directly or indirectly, whether by competitive bid process, informal bids, requests for proposals, some form of solicitation, negotiation, or agreement, or any other decision to enter into a contract;

(2) the Service Contractor is engaged in the business of, or part of, a contract to provide, a subcontractor to provide, or similarly situated to provide, Covered Services, either directly or indirectly for the benefit of the County[. However, this does not apply to contracts related primarily to the sale of products or goods]; or

(3) the Service Contractor is a General Aeronautical Service Permittee (GASP) at Miami International Airport.

(F) "Covered Services" are [[the type of]] services purchased by the County that are subject to the requirements of the Living Wage Ordinance which are one of the following:

(1) County Service Contracts

[[Such Covered Services are]] [[c]]>>C<>awarded by the County that involve a total contract value<< [[involving the County's expenditure]] of over \$100,000 per year for the following [[types of]] services:

(i) food preparation and/or distribution;

(ii) security services;

(iii) routine maintenance services such as custodial, cleaning, refuse removal, repair, refinishing, and recycling;

(iv) clerical or other non-supervisory office work, whether temporary or permanent;

(v) transportation and parking services including airport and seaport services;

(vi) printing and reproduction services; and,

(vii) landscaping, lawn, and/or agricultural services.

LIVING WAGE

(D) Certification required before payment. Any and all contracts for Covered Services shall be void, and no funds may be released, unless prior to entering any agreement with the County for a service contract, the >>Covered << [[e]]>>E<>L<>W< ***

(5) a commitment to pay all employees a [[i]]>>L<>W< ***

(F) Posting. A copy of the [[i]]>>L<>W< ***

Section 2. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 3. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 4. This ordinance shall become effective within ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

Section 5. This ordinance does not contain a sunset provision.

1 Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

□



Miami-Dade Legislative Item **File Number: 991160**

Print this page

File Number: 991160	File Type: Ordinance	Status: Adopted
Version: 0	Reference: 99-44	Control: County Commission
File Name: ORDINANCE RELATING TO LIVING WAGE ON COUNTY SERVICE CONTRACT		Introduced: 5/4/1999
Requester: NONE	Cost:	Final Action: 5/11/1999
Agenda Date: 5/11/1999		Agenda Item Number: 4BSUBSTITUTE

Notes:

Title: ORDINANCE CREATING SECTION 2-8.9 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA ESTABLISHING A LIVING WAGE REQUIREMENT FOR COUNTY SERVICE CONTRACTS AND FOR COUNTY EMPLOYEES; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

Indexes: CONTRACTS
LIVING WAGE

Sponsors: Natacha Seijas Millan
Miguel Diaz de la Portilla
Dorin D. Rolle
Javier D. Souto

Sunset Provision: No

Effective Date:

Expiration Date:

Registered Lobbyist: None Listed

LEGISLATIVE HISTORY

Acting Body	Date	Agenda Item	Action	Sent To	Due Date	Returned	Pass/Fail
Board of County Commissioners	5/11/1999	4B SUBSTITUTE	Adopted				P

REPORT: In response to Commissioner Carey-Shuler's inquiry, the Assistant County Attorney advised that State and Federal Agencies that provided services to the county would not be required to comply with the provisions of the foregoing ordinance unless the agency was responding to an RFP for one of the services specified within the ordinance. Commissioner Diaz de la Portilla spoke in support of the foregoing ordinance and addressed concerns raised regarding the impact implementation of the foregoing ordinance would have on the county's budget. He stated the county's budget would best benefit from improvement of oversight, ensuring that the bid process was truly competitive and exposing and correcting fraud, mismanagement and corruption. Commissioner Moss requested the county investigate using any additional resources available for the purpose of hiring the unemployed in the community.

County Attorney

5/4/1999

Assigned Eric A. Rodriguez

LEGISLATIVE TEXT**TITLE**

ORDINANCE CREATING SECTION 2-8.9 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA ESTABLISHING A LIVING WAGE REQUIREMENT FOR COUNTY SERVICE CONTRACTS AND FOR COUNTY EMPLOYEES; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

BODY

WHEREAS, the County awards private firms contracts to provide services for the public. The County also provides financial assistance to promote economic development and job growth. Such expenditures of public money also serve the public purpose by creating jobs, expanding the County's economic base, and promoting economic security for all citizens;

WHEREAS, such public expenditure should be spent only with deliberate purpose to promote the creation of full-time, permanent jobs that allow citizens to support themselves and their families with dignity. Sub-poverty level wages do not serve the public purpose. Such wages instead place an undue burden on taxpayers and the community to subsidize employers paying inadequate wages by providing their employees social services such as health care, housing, nutrition, and energy assistance. The County has a responsibility when spending public funds to set a community standard that permits full-time workers to live above the poverty line. Therefore, contractors and subcontractors of County service contracts should pay their employees nothing less than the living wage herein described; and

WHEREAS, in addition to requiring living wages for County services provided by private firms, the County wishes to serve as an example by providing a living wage to County employees to be determined consistent with budgetary, pay plan and bargaining unit considerations.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:

Section 1. Section 2-8.9 of the Code of Miami-Dade County, Florida, is hereby created as follows:
 Sec. 2-8.9. Living Wage Ordinance For County Service Contracts and County Employees.

DEFINITIONS

- (A) "Applicable Department" means the County department using the service contract.
- (B) "County" means the government of Miami-Dade County or the Public Health Trust.
- (C) "Covered Employee" means anyone employed by any Service Contractor, as further defined in this Chapter either full or part

time, as an employee with or without benefits that is involved in providing service pursuant to the Service Contractor's contract with the County.

(D) "Covered Employer" means any and all Service Contractors and subcontractors of Service Contractors.

(E) "Service Contractor" is any individual, business entity, corporation (whether for profit or not for profit), partnership, limited liability company, joint venture, or similar business that is conducting business in Miami-Dade County or any immediately adjoining county and meets the following criteria:

(1) the Service Contractor is paid in whole or part from one or more of the County's general fund, capital project funds, special revenue funds, or any other funds either directly or indirectly, whether by competitive bid process, informal bids, requests for proposals, some form of solicitation, negotiation, or agreement, or any other decision to enter into a contract;

(2) the Service Contractor is engaged in the business of, or part of, a contract to provide, a subcontractor to provide, or similarly situated to provide, Covered Services, either directly or indirectly for the benefit of the County. However, this does not apply to contracts related primarily to the sale of products or goods; or

(3) the Service Contractor is a General Aeronautical Service Permittee (GASP) at Miami International Airport.

(F) "Covered Services" are the type of services purchased by the County that are subject to the requirements of the Living Wage Ordinance which are one of the following:

(1) County Service Contracts

Such Covered Services are contracts involving the County's expenditure of over \$100,000 per year for the following types of services:

(i) food preparation and/or distribution;

(ii) security services;

(iii) routine maintenance services such as custodial, cleaning, refuse removal, repair, refinishing, and recycling;

(iv) clerical or other non-supervisory office work, whether temporary or permanent;

(v) transportation and parking services including airport and seaport services;

(vi) printing and reproduction services; and,

(vii) landscaping, lawn, and/or agricultural services.

(2) GASP Permittee

Any service that is provided by a GASP permittee at MIA is a Covered Service without reference to any contract value.

(3) Services Performed by County Employees

Should any services that are being performed by County employees at the time this Ordinance is enacted be solicited in the future by the County to be performed by a Service Contractor, such services shall be Covered Services subject to this Ordinance regardless of the value of the Contract.

LIVING WAGE

(A) Living Wage paid.

(1) Service Contractors.

All Service Contractors as defined by this Chapter, including MIA General Aeronautical Service Permittees (subject to restrictions if any applicable to such permit), performing Covered Services with Miami-Dade County shall pay to all of its employees providing Covered Services, a Living Wage of no less than \$8.56 per hour with health benefits as described in this section, or otherwise \$9.81 per hour.

(2) County Employees

For County employees under the County pay plan, the County will begin to pay a living wage consistent with the goals of this Ordinance on a phase-in basis beginning in the 2000-2001 County budget year increasing on an annual basis incrementally so that the Living Wage is fully implemented for County employees in the 2002-2003 County budget year as adjusted for inflation pursuant to subsection (C) below. Thereafter, the Living Wage to be paid by the County to its employees shall not be subject to the annual indexing required under subsection (C) below and instead is subject to negotiation within the collective bargaining structure.

(B) Health Benefits. For a Covered Employer or the County to comply with the Living Wage provision by choosing to pay the lower wage scale available when a Covered Employer also provides Health Benefits, such Health Benefits shall consist of payment of at least \$1.25 per hour towards the provision of health care benefits for employees and their dependents. If the health benefit plan of a Covered Employer or the County requires an initial period of employment for a new employee to be eligible for Health Benefits (eligibility period) such Covered Employer or the County may qualify to pay the \$8.56 per hour wage scale during a new employee's initial eligibility period provided the new employee will be paid Health Benefits upon completion of the eligibility period. Proof of the provision of Health Benefits must be submitted to the awarding authority to qualify for the wage rate for employees with health benefits.

(C) Indexing. The Living Wage will be annually indexed to inflation as defined by the Consumer Price Index calculated by the U.S. Department of Commerce as applied to the County of Miami-Dade. The first indexing adjustment shall occur for the 2001-2002 County budget year using the Consumer Price Index figures provided for the calendar year ended December 31, 2000, and thereafter on an annual basis.

(D) Certification required before payment. Any and all contracts for Covered Services shall be void, and no funds may be released, unless prior to entering any agreement with the County for a service contract, the employer certifies to the Applicable Department that it will pay each of its employees no less than the living wage described in (A). A copy of this certificate must be made available to the public upon request. The certificate, at a minimum, must include the following:

(1) the name, address, and phone number of the employer, a local contact person, and the specific project for which the service contract is sought;

(2) the amount of the contract and the Applicable Department the contract will serve;

(3) a brief description of the project or service provided;

(4) a statement of the wage levels for all employees; and

(5) a commitment to pay all employees a living wage, as defined by paragraph (A).

(E) Observance of other laws. Every employee shall be paid not less than bi-weekly, and without subsequent deduction or rebate on any account (except as such payroll deductions as are directed or permitted by law or by a collective bargaining agreement). The employer shall pay employees wage rates in accordance with federal and all other applicable laws such as overtime and similar wage laws.

(F) Posting. A copy of the living wage rate shall be kept posted by the employer at the site of the work in a prominent place where it can easily be seen by the employees and shall be supplied to the employee within a reasonable time after a request to do so. In

addition, Service Contractors shall forward a copy of the requirements of this Ordinance to any person submitting a bid for a subcontract on any Service Contract covered by this Chapter. Posting requirements will not be required where the employer prints the following statements on the front of the individual's first paycheck and every six months thereafter: "You are required by Miami-Dade County law to be paid at least [insert applicable rate under this Chapter] dollars an hour. If you are not paid this hourly rate, contact your supervisor or a lawyer." All notices will be printed in English, Spanish, and Creole.

(G) Collective Bargaining. Nothing in this Chapter shall be read to require or authorize any employer to reduce wages set by a collective bargaining agreement or as required under any prevailing wage law.

IMPLEMENTATION

(A) Procurement Specifications. The Living Wage shall be required in the procurement specifications for all County service contracts for Covered Services on which bids or proposals shall be solicited on or after the effective date of this Ordinance. The procurement specifications for applicable contracts shall include a requirement that Service Contractors agree to produce all documents and records relating to payroll and compliance with this Ordinance upon request from the Applicable Department or as otherwise provided by the County Manager by Administrative Order.

(B) Information distributed. All requests for bids or requests for proposals for service contracts, whether advertised or informally solicited, shall include appropriate information about the requirements of this Ordinance.

(C) Maintenance of Payroll Records. Each Covered Employer shall maintain payrolls for all Covered Employees and basic records relating thereto and shall preserve them for a period of three (3) years. The records shall contain:

- (1) the name and address of each Covered employee;
- (2) the job title and classification;
- (3) the number of hours worked each day;
- (4) the gross wages earned and deductions made;
- (5) annual wages paid;
- (6) a copy of the social security returns and evidence of payment thereof;
- (7) a record of fringe benefit payments including contributions to approved plans; and
- (8) any other data or information the Living Wage Commission should require from time to time.

(D) Reporting payroll. Every six (6) months, the Covered Employer shall file with the Applicable Department a complete payroll showing the employer's payroll records for each Covered Employee working on the contract(s) for Covered Services for one payroll period. Upon request, the Covered Employer shall produce for inspection and copying its payroll records for any or all of its Covered Employees for the prior three (3) year period. It shall be the responsibility of the Applicable Department to examine all payrolls for compliance within sixty (60) days of receipt.

(E) Reporting employment activity. Every six (6) months, the Covered Employer will file with the Applicable Department reports of employment activities to be made publicly available, including:

- (1) race and gender of employees hired and terminated; and
- (2) zip code of employees hired and terminated; and
- (3) wage rate of employees hired and terminated.

COMMISSION ON A LIVING WAGE, ESTABLISHMENT AND RESPONSIBILITY

(A) Establishment. The County Commission shall establish a fifteen (15) person commission entitled the "Living Wage Commission" the purpose of which shall be to review the effectiveness of this Chapter, review certifications submitted by Covered Employers to the County, review complaints filed by employees and to make recommendations to the County Mayor and the County Commission regarding the above listed matters.

(B) Members. The Commission shall be composed of fifteen (15) members provided that no more than six (6) members are representatives of the business community or affected employer groups selected for a term of two (2) years in the following manner:

- (1) Two (2) members of the commission shall be selected by the County Mayor; and
- (2) One (1) member shall be selected by each of the County Commissioners.

(C) Meetings. The Living Wage Commission shall meet quarterly and in special session as required. All meetings of the Living Wage Commission shall be open to the public and will allow for public testimony on policies or conduct relating to this Chapter.

(D) Staff Support. The County Manager as more fully delineated by Administrative Order shall provide staff support for the compliance and enforcement of this Ordinance and as is necessary to support the activities of the Living Wage Commission.

COMPLIANCE AND ENFORCEMENT

(A) Service Contractor to Cooperate. The Service Contractor shall permit County employees, agents, or representatives to observe work being performed at, in, or on the project or matter for which the Service Contractor has a contract. The County representatives may examine the books and records of the Service Contractor relating to employment and payroll to determine if the Service Contractor is in compliance with the provisions of this Chapter.

(B) Complaint Procedures and Sanctions. An employee who believes that this Chapter applies or applied to him or her and the Service Contractor is or was not complying with the requirements of this Chapter has a right to complain by filing a written complaint. The County Manager shall establish by Administrative Order the procedures and requirements for filing a complaint and for the processing and resolution of complaints under this Ordinance including the sanctions to be imposed for violations of this Ordinance. The County Manager shall also by Administrative Order establish a procedure applicable to complaints by County employees regarding non-compliance with this Ordinance.

(C) Private Right of Action Against Service Contractors. Any Covered Employee of a Service Contractor, or any person who was formerly a Covered Employee of a Service Contractor, may instead of the County administrative procedure set forth in this Ordinance but not in addition to such procedure, bring an action by filing suit against the Covered Employer in any court of competent jurisdiction to enforce the provisions of this Chapter and may be awarded back pay, benefits, attorney's fees, and costs. The applicable statute of limitations for such a claim will be two (2) years as provided in Florida Statutes section 95.11(4)

(c) in an action for payment of wages. The court may also impose sanctions on the employer, including those persons or entities aiding or abetting the employer, to include wage restitution to the affected employee and damages payable to the Covered employee in the sum of up to \$500 for each week each employer is found to have violated this Chapter.

(D) Sanctions Against Service Contractors. For violations of this Ordinance as determined pursuant to the procedures set forth by Administrative Order, the County may sanction a Service Contractor for violations of this Ordinance by requiring the Service Contractor to pay wage restitution to the affected employee. The County may also sanction the Service Contractor in at least one of the following additional ways:

- (1) Damages payable to the County in the sum of up to \$500 for each week for each Covered Employee found to have not been

paid in accordance with this Chapter;

(2) The County may suspend or terminate payment under the contract or terminate the contract with the Service Contractor;

(3) The County may declare the Covered Employer ineligible for future service contracts for three (3) years or until all penalties and restitution have been paid in full, whichever is longer. In addition all employers shall be ineligible under this section where principal officers of the employer were principal officers of an employer who has been declared ineligible under this Chapter; and.

(4) All such sanctions recommended or imposed shall be a matter of public record.

(E) Retaliation and Discrimination Barred. An employer shall not discharge, reduce the compensation or otherwise discriminate against any employee for making a complaint to the Living Wage Commission, the Applicable Department, the County, or otherwise asserting his or her rights under this Chapter, participating in any of its proceedings or using any civil remedies to enforce his or her rights under the Chapter. Allegations of retaliation or discrimination, if found by the County Manager pursuant to procedures set forth by Administrative Order or by a court of competent jurisdiction under paragraph (C), shall result in an order of restitution and reinstatement of a discharged employee with back pay to the date of the violation or such other relief as deemed appropriate. In addition, the County Manager or the Court may impose an additional sanction of up to \$500 for each week since the Covered Employee was discharged as a result of prohibited retaliation under this Chapter.

(F) Remedies Herein Non-Exclusive. No remedy set forth in this Chapter is intended to be exclusive or a prerequisite for asserting a claim for relief to enforce the right under this Chapter in a court of law.

Section 2. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 3. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 4. This ordinance shall become effective one hundred eighty days (180) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

Section 5. This ordinance does not contain a sunset provision.

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SUMMARY MINUTES OF THE
LIVING WAGE COMMISSION MEETING

DATE: Thursday, January 18, 2007

CALL TO ORDER TIME: 3:15 p.m.

MEETING ADJOURNED: 5:15 p.m.

MEMBERS PRESENT: Gary Waters, Ph.D., Chairman
Arthur Rosenberg, Esq., Vice-Chairman
Annette E. Masdeu-Vergara
Santiago G. Leon, Esq.
Benjamin Burton
Dennis Caserta
Irwin Loibman

MEMBERS EXCUSED: Gail Puntervold

MIAMI-DADE COUNTY
STAFF PRESENT: Tametria Harris Manager, Contract Review and
Compliance Division, DBD
Andrea Brown Contractor Compliance Officer, DBD
Cora Kobel Administrative Officer 1, DBD

OTHER ATTENDEES: David Dennis, Market GM, Sky Chefs
Jose Lopez, GM, Sky Chefs
Sandi Perchy, HR, Sky Chefs

COURT REPORTER: None

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Opening/Attendance

The February 15, 2007 Living Wage Commission (LWC) Meeting convened at approximately 3:15 p.m. Present at the meeting were: Gary Waters, Chairman, Arthur Rosenberg, Vice-Chair, Annette E. Masdeu-Vergara, Santiago Leon, Benjamin Burton, Irwin Loibman and Dennis Caserta.

Summary of Minutes

The November 16, 2007 minutes were approved.

Public Health Trust (PHT) Report

Chairman Gary Waters began the meeting by noting there was a quorum then asked if anyone from PHT was available to present a report. Since there was no one in attendance, he inquired if staff had received notification of non-attendance, or by way of a report. Ms. Harris responded that she had made contact via telephone and email with the PHT member and informed her of the Commission's requirement that a PHT member attends the monthly meetings. According to Ms. Harris, the member advised her that her schedule would not allow her to attend the meeting, that she would try to provide another staff member but, because they did not have the required staff, regular attendance may not be not feasible. Mr. Leon expressed his dissatisfaction that PHT not only did not have the time to attend, but failed to submit a report. Because the matter had been ongoing, Mr. Leon recommended that a supervisor be contacted to provide another staff member to attend these meetings in the future.

Chairman Waters inquired if direct communication was being maintained with PHT to provide a staff member as well as a report. Ms. Harris replied that she had consistently made such requests, both verbally and in writing, to the member and reiterated and was advised they did not have the necessary staff to attend. Chairman Waters asked Ms. Harris if the report had been received. Ms. Harris responded that she had not yet checked all her emails that day so it was possible that she did have the report and if so she would forward it; however, Ms. Harris requested that all PHT reports (except DBDs) be sent directly to the Commission in the future. Mr. Rosenberg suggested that a motion be made to authorize the Chair to appear before the PHT Commission and explain the importance of the Living Wage Ordinance and the necessity for their cooperation and participation and if necessary to use whatever other steps he deemed appropriate to ensure participation. Ms. Harris inquired if the Commission received the report would that suffice, and Mr. Waters stated it would not; that the Commission needed assurance from PHT to provide staff at these important meetings in the future, and if no staff was available the matter would be taken to the County Manager for his input. The motion was modified by the Chair to state that written communication be sent to the person responsible for supplying the report, with a copy to her supervisor, expressing the Commission's dissatisfaction that neither staff nor report had been forthcoming for the past several months and that a response be received by the Commission within ten (10) days. This motion passed.

After the vote, Mr. Loibman asked for an explanation of PHT's role/appearance, whether it was obligatory or voluntary. Mr. Waters said that while there was no written policy that PHT had to appear, they were required as a public service under the auspices of the County Manager and the Public Health Trust, to assist the Commission in carrying out its duties. This means they would need to appear to present reports and answer questions so that the Commission could perform its fiduciary responsibilities. Mr. Leon reminded the Chair that the Living Wage Commission had a responsibility to oversee the ordinance and the Trust has the responsibility to implement the ordinance within their operation. Additionally, there have been memoranda from

the County Manager about regular reporting from the Trust thus indicating an implicit obligation to appear. Mr. Waters requested that Ms. Harris check her emails to determine if a report had been received and to forward same to Commission members.

Department of Business Development Report(s)

Ms. Harris began by presenting the Sunset Review Report 2007 and asked that the Questionnaire be reviewed and approved. Ms. Harris identified the various exhibits/attachments to the report as follows:

- A. LW Member Directory
- B. Attendance Record from 01/2005 – 12/2006
- C. All Ordinances passed to date, including initial inception of 99-44
- D. Minutes approving Sunset Questionnaire

Mr. Leon requested that Attachment "A" page 2, be re-labeled to read "Support Staff" since the names listed thereon were not Commission members. Mr. Rosenberg presented his reappointment letter and requested that his term be corrected. Ms. Masdeu-Vergara requested that her affiliation be updated to include the company she represents; Mr. Leon suggested that if members are representing the business community it should be so stated. Ms. Harris suggested that any updates to Attachment "A" should be made *after* the Commission reviews and approves the Sunset Questionnaire. Mr. Leon recommended that the affiliation column indicate who is/is not a member of the business community *prior to* the questionnaire being submitted. Ms. Harris reminded the Commission that the information had been requested in December but since there was no meeting in December and no quorum in January, the report is overdue. Mr. Rosenberg made a motion that Ms. Harris' suggestion be accepted and the motion passed. Additionally, the Sunset Report was approved.

Discussion Items

- Summary of Wages assessed and recovered since inception of the Living Wage Ordinance - Ms. Harris provided the members with copies of the report.
- Under Compliance Review – Procurement
- Under Compliance Review – Aviation/Permittees
- Living Wages History of Notice to Cure (NTC)
- Living Wages History of Notice of Violations (NOV)

In response to Ms. Harris' statement that DBD inadvertently learned of one firm operating out of different facilities, Mr. Leon suggested that a request be made to Aviation to submit a list of buildings on the property and that DBD cross-check to determine which companies are conducting operations at which facility. Ms. Harris stated that DBD relies solely on Aviation to provide accurate information on who had received permits and based its monitoring capability on the information received. She advised the Commission that notice had been sent to the Aviation Director from DBD's Director regarding compliance monitoring at Aviation to address the need to have accurate information so that DBD can perform its duties and a meeting is forthcoming with the appropriate Aviation personnel. Ms. Harris recommended that the Commission may want to consider contacting the Aviation's director as well if they deemed it

necessary. Mr. Loibman asked Ms. Harris if she had complied with the Commission's directive to request that Aviation provide a member to report to the Commission. Ms. Harris replied that she had communicated the information but that the person had not accepted the invitation, neither was someone else sent in their stead. Chairman Waters recommended that a letter be sent from the Commission to the County Manager indicating that neither Aviation nor the Public Health Trust had been complying with the Ordinance and reporting to the Commission.

Chairman Waters asked Ms. Harris if, in addition to back wages, any penalties had been collected from firms in non-compliance. Ms. Harris replied that no penalties had been collected and reminded the Commission that at the November 2006 meeting the Commission had determined that DBD had not been correctly implementing the intent of the Ordinance in the way it was assessing penalties. Chairman Waters expressed concerns that companies would have no incentive to comply if they knew they had 30 days to comply without penalties. He recommended that staff contact the County Attorney to determine if the intent of the Ordinance is to impose penalties after a first violation. Ms. Harris stated she will communicate recommendation to DBD Director and if necessary consult with the County Attorney and get opinion on how the law is to be implemented. Mr. Waters requested that Ms. Harris have the opinion by the next meeting on March 15 2007.

Ms. Harris discussed the meeting with the Risk Management Department to discuss employee Health Benefits to determine the minimum criteria based on the Ordinance. A final decision will be forthcoming. Mr. Caserta asked Ms. Harris to explain how long DBD monitors a firm for non-compliance before assessing damages. Ms. Brown responded that it was not indefinite but was based on what was requested and what was received. Ms. Harris concurred and outlined a hypothetical timeline. Mr. Caserta advised the Commission that the reports were not clear as written because there appeared to be no resolution for some firms and requested that Ms. Harris identify each phase, request or resolution in subsequent reports. Ms. Harris reiterated that the question of how penalties were to be assessed would be considered after the opinion from legal counsel. Ms. Harris discussed the difference between the Permittees who could not be assessed back wages and the firms with contracts who could. If violations are found with a Permittee, DBD can only recommend that a permit be suspended or terminated while keeping in the forefront the adverse effect this could cause at MIA.

Status Report on Task Log

Task dated 6/4/04 - Prepare LW related article for newsletter. Chairman Waters apologized because he tried, but was unable to get any information on the newsletter. He reiterated that he did write a brief paragraph for the newsletter. **Ms. Harris asked if the Chair could forward an electronic copy to her, she would make sure to follow-up on it. The Chair replied that he would.**

Task dated 9/15/05 - Schedule LWC workshop to discuss penalties, violations and contract awards. Ms. Harris advised the Commission on the date of the next Living Wage Workshop, which will be held on August 31, 2006 for service contractors at MIA. The Workshop will be held at the Airport in Concourse A. She noted that there were two workshops previously held; one on July 6, 2006 and the other on July 18, 2006. Finally, she mentioned that the final workshop for the fiscal year, a workshop for vendors, is tentatively scheduled for the middle of September. **The LW Commission asked that they be given notice of the location of the workshop. Two (2) workshops conducted on 02/13/2007 with 30+ in attendance. First workshop was primarily represented by Aviation firms; others will be scheduled in the future as part of outreach program. A third will be scheduled for departments and user agencies to outline their responsibility towards compliance.** Mr. Caserta stated he was not made aware of the workshop and requested that he be informed in the future.

Task dated 02/15/07 – Ms. Harris will communicate with DBD Director and County Attorney how to implement penalty phase of LW Ordinance. Opinion needed by 03/15/2007. Letters to County Manager requesting cooperation from PHT and Aviation on their responsibilities to the Commission.

Task dated 02/15/07- Ms. Harris to provide flow chart of compliance monitoring process at next meeting.

Task dated 02/15/07- Ms. Harris will check members' appointments and update listing of reappointments.

Other Issues

Open Forum

Ms. Harris advised the Commission that Commissioner Moss is seeking representative to become Commission member and that she advised those who attended the workshops to contact his office if there were any interested persons.

Mr. Arthur Rosenberg advised that he was notified and provided a copy of outdated information being used regarding living wages and requested Ms. Harris notify DPM, MDTA and any other user agency that lets contracts in which living wages apply of the outdated information being used in bid solicitation packages and to make the necessary corrections.

Mr. David Dennis of Sky Chefs approached and questioned the purpose of the Living Wage Commission. He discussed his concerns that food preparers were now being placed under a living wage when in the past they were not eligible, based on information received from a former DBD staff member Mr. Albert Safille. He mentioned the loss in millions of dollars his company suffered because they chose to comply with an Ordinance that had been erroneously applied to them. He thought the Commission was uninformed about how wages were to be applied. Ms. Masdeu-Vergara responded that his company was under the living wage because they provide security in addition to food service. She also elaborated on how his firm came to be in noncompliance. Mr. Dennis responded that the list of companies included in the living wage ordinance is not comprehensible and he was of the opinion that the list was being compiled arbitrarily. He also stated that his firm's attorneys will be meeting the county's attorneys to clarify who should be included in the Ordinance because some firms had an unfair advantage because of their longevity in business and because of loopholes in the law.

Chairman Waters outlined the Living Wage Commission's role is to assess the effectiveness of the living wage and to make suggestions to the Commission of County Commission on the effectiveness of the wages and offer clarification where possible. Mr. Rosenberg interjected that it appeared Mr. Dennis' arguments were based on his assessment that his competitors were being given an unfair advantage because they failed to comply until the last minute. However, when DBD is made aware of their noncompliance, penalties can be assessed, although the Commission itself is seeking clarification of how to assess such penalties. Mr. Leon suggested that if Mr. Dennis is aware of competitors who are failing to comply with the Ordinance that he submit a list to the Commission so that the situation can be corrected. Ms. Harris said Mr. Dennis had valid concerns because he had previously been advised that his firm was not covered under the Ordinance, but she had received clarification from the County Attorney that they are covered and she was working with his company to bring them into compliance. She assured Mr. Dennis that although the list of violators may not appear to be comprehensive at present, and that firms were blatantly violating the Ordinance, her staff was

aggressively working to make things comprehensive and to assess penalties as warranted. Ms. Harris advised the Commission that many attendees at the workshop expressed that they were unaware there was a Living Wage Commission.

Meeting Adjournment

The Chairman adjourned the meeting at approximately 3:26 p.m.

Next Living Wage Commission Meeting:

Date: Thursday, March 15, 2007

Time: 3:00 p.m.

